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HOUSE BILL 386

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Al Park

AN ACT

**RELATING TO UTILITIES; DEFINING GENERATION AND TRANSMISSION
COOPERATIVE; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-6-4 NMSA 1978 (being Laws 1941,
Chapter 84, Section 17, as amended) is amended to read:

"62-6-4. SUPERVISION AND REGULATION OF UTILITIES. --

A. The commission shall have general and exclusive
power and jurisdiction to regulate and supervise every public
utility in respect to its rates and service regulations and in
respect to its securities, all in accordance with the
provisions and subject to the reservations of the Public
Utility Act, and to do all things necessary and convenient in
the exercise of its power and jurisdiction. Nothing in this
section, however, shall be deemed to confer upon the commission

underscored material = new
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1 power or jurisdiction to regulate or supervise the rates or
2 service of any utility owned and operated by any municipal
3 corporation either directly or through a municipally owned
4 corporation or owned and operated by any H class county, by a
5 class B county as defined in Section 4-36-8 NMSA 1978 or by a
6 class A county as described by Section 4-36-10 NMSA 1978 either
7 directly or through a corporation owned by or under contract
8 with an H class county, by a class B county as defined in
9 Section 4-36-8 NMSA 1978 or by a class A county as described by
10 Section 4-36-10 NMSA 1978 or the rates, service, securities or
11 class I or class II transactions of a generation and
12 transmission cooperative [~~as defined in the Electric Utility~~
13 ~~Industry Restructuring Act of 1999~~]. No inspection or
14 supervision fees shall be paid by generation and transmission
15 cooperatives, or by such municipalities or municipally owned
16 corporations, a class B county as defined in Section 4-36-8
17 NMSA 1978, a class A county as described by Section 4-36-10
18 NMSA 1978 or H class counties or such corporation owned by or
19 under contract with a class B county as defined in Section
20 4-36-8 NMSA 1978, a class A county as described by Section
21 4-36-10 NMSA 1978 or an H class county with respect to
22 operations conducted in a class B county as defined in Section
23 4-36-8 NMSA 1978, in a class A county as described by Section
24 4-36-10 NMSA 1978 or in H class counties.

25 B. The sale, furnishing or delivery of gas, water

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1 or electricity by any person to a utility for resale to or for
2 the public shall be subject to regulation by the commission but
3 only to the extent necessary to enable the commission to
4 determine that the cost to the utility of the gas, water or
5 electricity at the place where the major distribution to the
6 public begins is reasonable and that the methods of delivery of
7 the gas, water or electricity are adequate; provided, however,
8 that nothing in this subsection shall be construed to permit
9 regulation by the commission with respect to a generation and
10 transmission cooperative [~~as defined in the Electric Utility~~
11 ~~Industry Restructuring Act of 1999~~], except location control
12 pursuant to Section 62-9-3 NMSA 1978 and limited rate
13 regulation to the extent provided in Subsection D of this
14 section, or of production or sale price at the wellhead of gas
15 or petroleum.

16 C. The sale, furnishing or delivery of coal,
17 uranium or other fuels by any affiliated interest to a utility
18 for the generation of electricity for the public shall be
19 subject to regulation by the commission but only to the extent
20 necessary to enable the commission to determine that the cost
21 to the utility of the coal, uranium or other fuels at the point
22 of sale is reasonable and that the methods of delivery of the
23 electricity are adequate; provided, however, that nothing in
24 this subsection shall be construed to permit regulation by the
25 commission of production or sale price at the wellhead of gas

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1 or petroleum. Nothing in this section shall be construed to
2 permit regulation by the commission of production or sale price
3 at the point of production of coal, uranium or other fuels.

4 D. New Mexico rates proposed by a generation and
5 transmission cooperative shall be filed with the commission in
6 the form of an advice notice, a copy of which shall be
7 simultaneously served on all member utilities. Any member
8 utility may file a protest of the proposed rates no later than
9 twenty days after the generation and transmission cooperative
10 files the advice notice. If three or more New Mexico member
11 utilities file protests and the commission determines there is
12 just cause in at least three of the protests for reviewing the
13 proposed rates, the commission shall suspend the rates, conduct
14 a hearing concerning reasonableness of the proposed rates and
15 establish reasonable rates. Each protest must contain a clear
16 and concise statement of the specific grounds upon which the
17 protestant believes the proposed rates are unreasonable or
18 otherwise unlawful; a brief description of the protestant's
19 efforts to resolve its objections directly with the generation
20 and transmission cooperative; a clear and concise statement of
21 the relief the protestant seeks from the commission; and a
22 formal resolution of the board of trustees of the protesting
23 member utility authorizing the filing of the protest. In order
24 to determine whether just cause may exist for review, the
25 commission shall consider whether each protestant has exhausted

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1 remedies with the generation and transmission cooperative or
2 whether the generation and transmission cooperative has
3 unreasonably rejected the protestant's objections to the
4 proposed rates. A member utility shall present its objections
5 to the generation and transmission cooperative in writing and
6 allow a reasonable period for the generation and transmission
7 cooperative to attempt resolution of, or otherwise respond to,
8 those objections. A period of seven days after receipt of
9 written objections will be deemed reasonable for the generation
10 and transmission cooperative to provide a written response to
11 the member utility, but a written response is not required if
12 such time period extends beyond twenty days after the date on
13 which the generation and transmission cooperative filed the
14 advice notice. The generation and transmission cooperative and
15 its members are expected to make a good faith effort to resolve
16 the member utility's objections to the proposed rates during
17 that period of time.

18 E. As used in this section, "generation and
19 transmission cooperative" means a person with generation or
20 transmission facilities either organized as a rural electric
21 cooperative pursuant to Laws 1937, Chapter 100 or the Rural
22 Electric Cooperative Act or organized in another state and
23 providing sales of electric power to member cooperatives in
24 this state."

25 Section 2. EMERGENCY.--It is necessary for the public

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peace, health and safety that this act take effect immediately.